



FREEPORT-McMoRAN SULPHUR

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October 31, 2001

VIA U.S. MAIL & FAX: 202-456-6546
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Chair, Council on Environmental Quality
Executive Office of the President
17th and G Streets, NW
Washington, D.C. 20503

Attention: Task Force

Ladies and Gentlemen:

RE: Energy Task Force Comments

Please reference the Notice and Request for Comments (“Notice”) by the Council on Environmental Quality published in the August 20, 2001 Federal Register (66 FR 43586) and the extension of comment deadline published in the October 3, 2001 Federal Register (66 FR 50434). The Notice announced the creation, pursuant to Executive Order 13212, of a federal inter-agency task force (“Task Force”) and requested comments on, among other things, major pending energy-related projects under development that may be relevant to Task Force efforts to streamline energy permitting decisions.

Freeport-McMoRan Sulphur LLC (“Freeport”) is a wholly owned subsidiary of McMoRan Exploration Company, a publicly-traded company engaged in the exploration for, and production of, oil and gas, primarily in the outer continental shelf (“OCS”) region of the Gulf of Mexico and the Gulf coast area. Until mid-2000, Freeport’s business consisted of two principal operations, sulphur services (the purchase and resale of sulphur and sulphur marketing and terminalling operations) and sulphur mining. Freeport has been mining sulphur by the Frasch process from salt dome deposits similar to the Main Pass Mine since 1912. The Frasch process for producing sulphur requires the injection of superheated brine into the sulphur bearing formations to melt the sulphur which is then brought to the surface. Freeport is intimately familiar with the drilling, completion and operation of wells for sub-seabed injection mining and the creation and operation of brine caverns. These operations are comparable to the proposed E&P waste disposal operations discussed in the following paragraph. During 2000, low sulphur prices and high natural gas prices (large volumes of natural gas are consumed as fuel in the sulphur production process) caused the operations at Freeport’s last operating sulphur mine, at Main Pass Block 299 (in the federal waters of the OCS), to be

uneconomical. Sulphur production from that mine ceased on August 31, 2000 (although commercial production of salt continues).

Freeport, in an effort to find alternative uses for the structures at Main Pass 299 (constructed at a cost in 1989-1990 of approximately \$700 million), determined that the facility could be used for commercial sub-seabed injection of RCRA-exempt oil and gas exploration and production waste (known as E&P waste) generated in OCS waters of the Gulf of Mexico.

The current alternatives for disposal of E & P wastes are: 1) transportation by barge of such waste to shore for disposal via landfarming or injection wells onshore; 2) on site injection sub-seabed near where the waste is generated (involving fracturing of the sub-seabed geologic structures); and 3) permitted discharge of the waste overboard, into the waters of the Gulf of Mexico (a practice allowed by the EPA only for the lowest toxicity pollutants). Freeport, with its partner Trinity Storage Services, L.P. (a subsidiary of CCNG, Inc.) recognized that disposal, via injection well, into the salt caverns and associated caprock under the seabed of the Gulf at Main Pass Block 299 is an environmentally superior method of disposal of OCS-generated E&P waste.

Reducing the volume of OCS-generated E&P waste that goes onshore for disposal will reduce the number of transfers of such waste and reduce the miles of overland transport associated with that waste, thereby reducing the risk of pollution due to spills and reduce the volumes of air emissions attributable to operations to dispose of such waste. The risk of pollution due to escape of the wastes into groundwater is eliminated because the wastes will be injected into the sub-seabed miles offshore. Additionally, because the waste will be isolated in a salt cavern or in caprock, the risk of the waste migrating up fractures in the subseabed and ultimately to the surface is greatly reduced. Finally, some of the wastes that EPA allows to be disposed of overboard, into the waters of the Gulf (e.g., "excess cement" and "drill cuttings" associated with water-based drilling fluids) tend to clump on the Gulf floor near the discharge point. The disposal of these wastes via injection into the sub-seabed presents an environmentally beneficial alternative to discharge into the Gulf of Mexico.

Freeport, after months of preliminary meetings with the Minerals Management Service ("MMS"—the federal agency charged under the Outer Continental Shelf Lands Act with oversight of OCS oil, gas, sulphur and salt exploration and development), submitted a Supplemental Development Operations Coordination Document (DOCD) for the combined brine production and E&P waste disposal project on November 17, 2000. The MMS then advised Freeport that the E&P waste project should be separately applied for, and, accordingly, Freeport submitted separate Applications for Permits to Inject E&P Waste on January 25, 2001. The managers of the Gulf of Mexico OCS Region office of the MMS have acknowledged the environmental attractiveness of the proposal, however, the proposal is for the first commercial E&P waste disposal operation in OCS waters. Commercial E&P waste disposal facilities are not mentioned either in the Outer

Continental Shelf Lands Act, MMS regulations, or in any agency policy statements. Accordingly, they sought guidance from the MMS headquarters office. Over the ensuing months, Freeport stayed in ongoing contact with MMS regarding the status of the regulatory review, and the consistent response to Freeport's inquiries was that commencement of the review was being deferred pending guidance from headquarters. A meeting to discuss the permit process was held in June of 2001 between McMoRan Exploration Company's senior management and the MMS Gulf of Mexico Region Regional Director. MMS at this time advised Freeport that review of the January applications would commence.

Pursuant to 16 pages of comments received by Freeport on August 7th, Freeport formally rescinded and re-submitted the applications on August 17th. After further review, the MMS issued 8 more pages of comments in a letter received by Freeport on October 11th, in response to which Freeport submitted substantially amended applications on October 17th. In this same letter of October 11th, the MMS advised Freeport that (1) A Federal Register Notice is being prepared, and it will include notice of a public meeting to be held in December; and (2) The new target date for completion by the MMS of the Environmental Assessment (required by the National Environmental Policy Act ["NEPA"]) for the project is April 2002, *but*, because the MMS is proposing a "Section 7 Consultation" (under the Endangered Species Act) with the National Marine Fisheries Service ("NMFS"), "decision on [the] applications will be made no sooner than early June 2002"—a full year and a half from the initial submittal of the applications to the MMS—and a far longer period than the MMS had indicated would be necessary in the meetings of a year ago, or even just four months ago. The agency has yet to even deem the applications "complete".

Freeport's OCS E&P Waste Disposal Project is an appropriate project to be addressed under the provisions of Executive Order 13212 of May 18, 2001, "Actions to Expedite Energy-Related Projects," because the permitting agency (the MMS) is attributing anticipated further delay to the application of: (1) NEPA and (2) Inter-agency coordination required by the Endangered Species Act.

Freeport recognizes that the implementing regulations of NEPA mandate reduction of paperwork and excessive delay, and the implementing regulations of the Endangered Species Act provide methods for expediting review. Freeport is urging the agency to recognize and implement these provisions, and requesting herein that the Energy Task Force provide additional assistance in these efforts to expedite review. It is Freeport's opinion that neither NEPA nor the Endangered Species Act was ever intended to *discourage* development of new, more environmentally beneficial methods of waste disposal.

Accordingly, pursuant to the Notice's section II, "**Requests for Information and Comments**," Freeport hereby submits the following basic information about this major energy-related project:

1. **Name of the project:** The OCS E&P Waste Disposal Project at Main Pass 299.
2. **Entity proposing the project:** Freeport-McMoRan Sulphur LLC.
3. **Category of the project—Pipeline, Electricity Transmission, Electricity Generation, Nuclear, Hydropower, Refinery, Renewable, Conservation, or Other:** Other— Sub-seabed Disposal of RCRA-Exempt Waste Resulting from OCS Oil & Gas Exploration and Production.
4. **Brief description of the project:** Approval is sought for injection, on a commercial basis, of OCS-generated, RCRA-exempt E&P waste into salt caverns and caprock underlying Sulphur and Salt Lease OCS-G 9372, Main Pass Block 299. The project is to combine the production of salt (in the form of brine) and the use of the caverns created by salt production (and in the course of sulphur production, which was previously conducted on the lease) as well as caprock overlying the salt dome for disposal of the OCS-generated E&P waste.
5. **Agency or agencies that must be consulted and agencies from which approval is needed. Please list by the following categories: Federal, State, Tribal, Local, Other:** The only agencies that must be consulted or from which approval is needed are Federal agencies in the U.S. Department of Interior. Approval is needed from the Minerals Management Service; agencies that must be consulted are the National Marine Fisheries Service (NMFS) and (potentially) the U.S. Fish and Wildlife Service.

Freeport appreciates any support that you can provide, and we are available to answer questions and provide additional information if necessary. If you have any questions or require additional information, please contact me at 504-582-4880.

Sincerely,

David C. Landry

cc: Chris Oynes
Chuck Schoennagel
Nicholas Wetzell
Angie Gobert

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